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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,551	03/21/2001	Tetsuo Nakata	826.1711/JDH	2646

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EXAMINER

GEDRICH, SARAH R

ART UNIT PAPER NUMBER

3625

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,551

Applicant(s)

NAKATA ET AL.

Examiner

Sarah R. Gedrich

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 1 and 7-13 have been amended. Claims 1 and 3-13 are pending and have been examined in this office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 3-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glassman (U.S. Patent No. 6,453,305) in view of Stefik et al (US Patent No. 5,629,980, hereinafter referred to as "Stefik").

1. Referring to claim 1. Glassman discloses a sales method for selling a literary work, comprising:

- Selling the literary work to a purchaser using a computer based sales device to communicate over a communication network with the purchaser at a computer based purchaser device (Glassman: column 4, lines 7-15);
- Associating information about the literacy work and information about a purchaser that has purchased said literary work (Glassman: column 4, lines 45-62); and

Art Unit: 3625

- Providing said associating information via the network (Glassman: column 5, lines 8-15) and wherein the literary work is sold per units of rights on a copyright of the literary work (Glassman: column 5, lines 34-56).

Glassman fails to disclose wherein the literary work is sold per units of rights based on a copyright of the literary work with the rights units comprising a right to reproduce the original (reproduction right), a right to broadcast to the public (broadcast right), a right to exhibit to the public (exhibition right) or a right to perform (performance right).

Stefik teaches a system for controlling the distribution and use of digital works. Stefik teaches a system for transacting digital works and usage rights that define how the rights may be used or distributed. Stefik further teaches:

- Wherein the literary work is sold per units of rights based on a copyright of the literary work with the rights units comprising a right to reproduce the original (reproduction right), a right to broadcast to the public (broadcast right), a right to exhibit to the public (exhibition right) or a right to perform (performance right) (at least Stefik: column 19, line 50 – column 20, line 6).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Glassman to include wherein the literary work is sold per units of rights based on a copyright of the literary work with the rights units comprising a right to reproduce the original (reproduction right), a right to broadcast to the public (broadcast right), a right to exhibit to the public (exhibition right) or a right to perform (performance right) as taught by Stefik in order to provide restricted access to electronic content tat works with a variety of possible access schemes (Glassman: column 2, lines 27-29).

Art Unit: 3625

2. Referring to claim 3. Glassman further discloses a sales method wherein the information about the purchaser is provided per units of the sold rights (Glassman: column 5, lines 34-56).
3. Referring to claim 4. Glassman further discloses a sales method comprising:
Notifying a seller of the literary work of rights based on the copyright corresponding to a type of the literary work (Glassman: column 6, lines 20-49); and
Obtaining from the seller information about the right to be sold, from the notified rights (Glassman: column 6, lines 20-49).
4. Referring to claim 5. Glassman further discloses a sales method wherein the information about the purchaser is provided to an arbitrary person (Glassman: Figure 2, "BANK").
5. Referring to claim 6. Glassman further discloses a sales method wherein the information about the purchaser is provided after payment of a purchaser price is confirmed (Glassman: column 5, lines 34-56).
6. Referring to claim 7. Glassman discloses a purchase method for purchasing a literary work, comprising:
 - Purchasing the literary work by a purchaser using a computer based sales device to communicate over a communication network with the purchaser at a computer based purchaser device (Glassman: column 4, lines 7-15); and
 - Being authenticated to be a purchaser of the literary work by publicizing the fact via a network (Glassman: column 5, lines 34-56), and

Art Unit: 3625

- Wherein the literary work is sold per units of rights based on a copyright of the literary work (Glassman: column 5, lines 34-56).
7. Referring to claim 8. Claim 8 is rejected under the same rationale as set forth above in claims 1 and 3-5.
 8. Referring to claim 9. Claim 9 is rejected under the same rationale as set forth above in claims 1 and 3-5.
 9. Referring to claim 10. Claim 10 is rejected under the same rationale as set forth above in claims 1 and 3-5.
 10. Referring to claim 11. Claim 11 is rejected under the same rationale as set forth above in claims 1 and 3-5.
 11. Referring to claim 12. Claim 12 is rejected under the same rationale as set forth above in claims 1 and 3-5.
 12. Referring to claim 13. Claim 13 is rejected under the same rationale as set forth above in claims 1 and 3-5.

Response to Arguments

Applicant's arguments, see page 6, paragraphs 2 and 3, filed 18 February 2005, with respect to 35 U.S.C. 101 and 35 U.S.C. 112, paragraph 2, have been fully considered and are persuasive. The rejection of claims 12 and 13 under 35 U.S.C. 101 has been withdrawn. The rejection of claims 1 and 3-7 under 35 U.S.C. 112, paragraph 2 has been withdrawn.

Art Unit: 3625

Applicant's arguments filed 18 February 2005 have been fully considered but they are not persuasive.

Applicant argues:

- **“This portion of Glassman discusses licensing numbers of users not copyright rights units.”**

In response to this argument, the Examiner notes that the multiple users correspond to the number of units of rights that are present on the license.

- **“The dependent claims also recite additional features not taught or suggested by the prior art. For example, claim 4 calls for obtaining from the seller copyright rights to be sold. Glassman does not teach or suggest such.”**

In response to this argument, the Examiner notes that claim for calls for “obtaining from the seller *information about the right* to be sold, from the notified rights” (emphasis added). The Examiner further notes that Glassman teaches obtaining from the seller information about the right to be sold, from the notified rights (column 6, lines 20-49). The Examiner notes that the vendor determines whether a consumer is entitled to a license based on, for example, the state of residence of the consumer and the license agreement of the content.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3625

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah R. Gedrich whose telephone number is (571) 272-8121. The examiner can normally be reached on M-F 7:30am - 5:00pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (571) 272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRG



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